IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Transfer Application No. 01 of 2005

Arvind Prasad Joshi
S/o Shri Govind Prasad Joshi
Junior Engineer Maneri Bali
Bandh Nirman Khand Chinyali
S Aur-3 District Uttarkashi ……..Applicant

Versus

1. State of Uttaranchal
2. The Family Court, Dehradun
3. Smt. Kalpana Joshi
   W/o Shri Arvind Prasad Joshi
   R/o H.B.C. 118 Yammuna Colony
   Dehradun ……..Opposite parties

Sri Lokendra Dobhal learned counsel for the applicant.
Sri H.M. Raturi learned counsel for the opposite party no.3
Sri H.C. Pande learned counsel for the State.

Hon'ble B.C. Kandpal, J.

This is the transfer application under Section 407 of Cr.P.C. for transferring the maintenance Case No. 291 of 2004 Smt. Kalpana Joshi and other Vs. Arvind Prasad Joshi under Section 125 Cr.P.C. pending in the court of Family Judge, Dehradun to the competent at District Uttarkashi.

Heard learned counsel for the parties and perused the record.

Learned counsel for the applicant has submitted that the applicant is in Government job and has been transferred from Dehradun to Uttarkashi but his wife i.e. Smt. Kalpana Joshi has occupied the residence at Dehradun and is not willing to live with him at Uttarkashi.

It has been submitted that in case, if the above mentioned case is transferred to District Uttarkashi then it will be possible for both the parties to plead their easily at Uttarkashi.

Having considered the submission advanced by the learned counsel for the applicant, I am of the definite view that it is not a fit case in which

the matter can be transferred from the court at Dehradun to the competent court of jurisdiction at Uttarkashi. The case is merely not to be transferred on the ground of the convenience to one of the parties. Admittedly, in this case the lady is residing at Dehradun where the maintenance case is pending, therefore, in case, if the matter is transferred to Uttarkashi then the same difficulty arise before the opposite party Smt. Kalpana Joshi as she will have to plead her case by going to Uttarkashi on the every date fixed while it would be easier for the husband i.e. applicant to come down to Dehradun in order to plead the case on the date fixed.

I do not find any merit in this transfer application and the same is accordingly dismissed.

(B.C. Kandpal, J.)

21.04.2005
ASWAL